

# Notice of Allowability

Application No.

09/915,789

Examiner

ILIA OUSPENSKI

Applicant(s)

CHEN, LIEPING

Art Unit

1644

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/01/2004 and 11/29/2004.
2. ☒ The allowed claim(s) is/are 3 and 38, renumbered 1 and 2.
3. ☒ The drawings filed on 13 January 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                    |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>11/29/2004</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                           |
|   | 9. <input type="checkbox"/> Other _____  |

### **DETAILED ACTION**

1. Applicant's amendment, filed 11/29/2004, is acknowledged.

Claims 1 – 2 and 4 – 57 have been cancelled.

Claims 3 and 58 have been amended.

Claims 3 and 58 are pending.

2. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 11/29/2004, Stuart Macphail, Applicant's representative, requested an extension of time for ONE MONTH and authorized the Director to charge Deposit Account No. 06-1050 the required fee of \$1,040 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

#### ***Examiner's Amendment***

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

4. Authorization for this Examiner's Amendment was given in a telephone interview with Stuart Macphail, Applicant's representative on 11/29/2004.

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5. In the Claims:

In claim 3, the phrase "wherein the nucleic acid sequence hybridizes, after a wash at 50°C to 65°C in a buffer containing 0.2 x SSC and 0.1% SDS, to the complement of the nucleotide sequence set forth in SEQ ID NO:6," has been deleted.

In claim 58, the phrase "wherein the nucleic acid sequence hybridizes, after a wash at 50°C to 65°C in a buffer containing 0.2 x SSC and 0.1% SDS, to the complement of the nucleotide sequence set forth in SEQ ID NO:6," has been deleted.

***Reasons for Allowance***

6. The following is an Examiner's Statement of Reasons for Allowance:

Applicant's amendment filed 11/01/2004, in conjunction with discussion presented during a telephone interview on 11/29/2004, obviated the previous rejection of record set forth in the Office Action mailed 11/26/2003. In the telephone interview, it was agreed that the claims, as amended 11/01/2004, are limited in scope to a nucleic acid sequences comprising SEQ ID NO:6 and a nucleic acid sequence encoding the polypeptide3 comprising amino acids 1 – 282 of SEQ ID NO:5, and complementary sequences thereof. The Examiner's Amendment is made for clarity and does not narrow the scope of the claims.

It is noted that for examination purposes, the phrase "the complement of the nucleic acid sequence" is interpreted to mean "the complement over the full length of the nucleic acid sequence."

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Claims 3 and 58 are pending and deemed allowable.

The prior art does not teach or suggest the claimed nucleic acids.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI

Patent Examiner

Art Unit 1644

December 1, 2004

*Phillip Gambel*  
PHILLIP GAMBEL, PH.D.  
PRIMARY EXAMINER  
*Art Unit 1644*  
*12/6/04*